IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO.4508 OF 2006

The State of Maharashtra. ..Applicant.
Vs.
Irayya S.Swasmi and ors. ..Respondents.

Mrs. S.D.Shinde, APP. for the Applicant.

CORAM: B.H.MARLAPALLE &
R.S. MOHITE, JJ.
DATED :20TH FEBRUARY, 2007

P.C.

1. Heard Mrs. Shinde, the learned A.P.P.

2. This is an application seeking leave to appeal under Section-378(3) of the Code of Criminal Procedure against the order of acquittal in Sessions Case No.6 of 2005 passed by the Additional Sessions Judge at Jaisingpur,Dist. Kolhapur.

3. P.W.No.5 Mangal Bapu Benichetge was the complainant and as per her evidence there are two incidents that had taken place on 18.11.2004 at about 8.00p.m. in her house built in Gat No.93/1/A situated behind Modi Hospital at Jaisingpur. As per her evidence, the land belongs to accused No.2 and he was insisting that the tenant i.e. the complainant and her brother vacate his place. She stated that mob of 100-persons along with accused Nos. 1 and 2 had entered her house with big

knife and sickle. Herself and her brother started running in fear and they were chased and caught hold. In the second incident about 200 persons had come and she was robbed of her jewellery and cash of Rs.9000/- .

4. Before the Trial Court, the complainant's brother was not examined. The investigation was found to be tardy and the evidence did not inspire confidence as per the learned Trial Judge. The prosecution failed to prove its case beyond reasonable doubt for the offences punishable under Sections-147,148,323,,354, 427 and 447 read with 149 of the Indian Penal Code.

5. We have heard the learned A.P.P. and perused the reasonings set out by the learned Additional Sessions Judge in support of the order.

5. We are satisfied that the said order does not call for reconsideration by this court. Hence, the application for leave to appeal is hereby rejected.

(R.S. MOHITE, J.) **(B.H. MARLAPALLE, J.)**